

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1492 of 1997
with
Civil Application No. 4671 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNITED INDIA INSURANCE CO LTD

Versus

KANTIBHAI CHAGANBHAI PATEL

Appearance:

MR DARSHAN M PARIKH for Petitioner
NANAVATY ADVOCATES for Respondent No. 1
SERVED for Respondent No. 2
SERVED BY AFFIXING for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

Date of decision: 17/02/98

ORAL JUDGEMENT

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act' for short) against the judgment and award dated 21.1.1997, recorded by Motor Accident Claims

Tribunal (Aux.), Sabarkantha, at Himatnagar, in Motor Accident Claim Petition No. 302 of 1990, whereby, the injured claimant came to be awarded an amount of Rs.1,65,762/- by way of compensation for the personal injuries sustained by him in a vehicular accident which occurred on 10.3.1990.

Respondent No.1 is the original claimant, who was going on scooter on the day of the, unfortunate, accident and when he reached near village Kanpur, on National Highway No.8, at that time, Maruti Van No. GBQ 611 came from opposite direction with excessive speed and in violation of the traffic rules, as a result of which there was a dashing of van with the scooter of the claimant. The claimant had sustained serious injuries on various parts of the body, with a fracture of fibula, which also culminated into permanent partial disablement to the extent of 19% of the anatomy.

After having heard learned advocates appearing for the parties and considering the facts and circumstances emerging from the record of the present case, the copies, whereof, were supplied to us during the course of submission by the learned advocates appearing for the parties, we are of the opinion that instead of monthly income at Rs.5,000/- adopted by the Tribunal, it would be just and reasonable to assess it at Rs.4,000/-. The Tribunal has awarded the aforesaid amount of Rs.1,65,762/- by way of compensation, the beak-up of which is as follows:

1. Rs.1,35,000/- Future economic loss
2. Rs. 7,500/- Pain, shock and sufferings
3. Rs. 15,000/- Loss of past income
4. Rs. 2,262/- Medical expenses
5. Rs. 2,000/- Conveyance, special diet and attendant charges
6. Rs. 4,000/- Damage to scooter

Rs.1,65,762/-

The claimant is, as such, in the light of the facts and circumstances and the evidence on the record, is found to be entitled to following amount on monthly income of Rs.4000/-:

1. Rs.1,08,000 Future economic loss
2. Rs. 7,500 Pain, shock and sufferings
3. Rs. 12,000 Loss of past income
4. Rs. 2,300 Medical expenses
5. Rs. 2,000 Conveyance, special & attendant charges
6. Rs. 4,000 Damage to scooter

Rs.1,35,800

In the light of the facts and circumstances, the claimant would be entitled to an amount of Rs.1,35,800/- by way of compensation with proportionate costs and interest for the personal injuries sustained by him on the aforesaid heads against the amount of Rs.1,65,762/- as awarded by the Tribunal.

In the result, the appeal to that extent is required to be allowed. Accordingly, the appeal is allowed to that extent, with no order as to costs. The appellant, Insurance Company, is directed to deposit the balance amount of compensation as assessed by us within a period of six weeks from today before the Tribunal and it will be open for the Tribunal to pass appropriate order for disbursement and investment prorata in terms of the directions issued in the impugned award.

Appeal is, partly, allowed to the aforesaid extent by modifying the impugned award with no order as to costs.

In view of the above order passed in First Appeal, in civil application, the Rule is made absolute with no order as to costs.